

IN THE UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF GEORGIA  
ATLANTA DIVISION

_____	)	
FADIL DELKIC,	)	
	)	CIVIL ACTION FILE
Plaintiff,	)	
	)	NO.: <u>1:07-cv-1864-BBM</u>
vs.	)	
	)	
VLADIMIR DJURDJEV, BOJAN	)	<i>Hon Beverly B. Martin, Presiding</i>
("BOB") PANIC, ET AL.,	)	
	)	
Defendants.	)	MOTION
_____	)	

MOTION FOR LEAVE TO AMEND, CLARIFY AND/OR SUPPLEMENT COMPLAINT  
AND PRAYERS FOR RELIEF AND AUTHORITY THEREFOR ("SECOND MOTION")

Plaintiff moves this Court for leave to amend, clarify and/or supplement his complaint and prayers for relief, attaches subject amended complaint and shows this Court as follows:

1. Plaintiff filed his Complaint on August 7, 2007.
2. Defendants were duly and properly served by Cook County, IL, Sheriff Deputies on December 12, 2007.
3. Defendants, *in lieu* of filing an Answer or Defenses, filed their instant *Motion to Dismiss Complaint and Request For Attorney's Fees* [Doc 6] ("Motion and Request").
4. On or about January 18, 2008, Plaintiff filed a motion for an expansion of time to respond to Defendants' Motion and Request up to and through February 4, 2008 [Doc. 8] ("First Motion").
5. Plaintiff's First Motion is still pending before this Court.

6. In order to fully respond to Defendants' Motion and Request, Plaintiff requests that he be allowed to amend, clarify and/or otherwise supplement his original Complaint in order, in part, to use said Complaint, as amended in his Response.
7. For the within reasons, this Court should grant Plaintiff's Second Motion and allow him up to amend, or otherwise clarify and/or supplement his original complaint and his original prayers for relief.

Argument and Citation to Authority:

This Court has the inherent and equitable power to control matters before it and as a nine (9) business day delay will not prejudice Defendants, this Court is authorized to grant Plaintiff's request for the additional time.

The Eleventh Circuit has determined that such amendments must be liberally granted unless there is severe, undue prejudice to Defendants.

After a responsive pleading has been filed, subsequent amendments are permissible only with leave of court, which "shall be freely given when justice so requires." Fed.R.Civ.P. 15(a). This liberal policy of allowing amendments under Rule 15(a) "circumscribes the exercise of the district court's discretion; thus, unless a substantial reason exists to deny leave to amend, the discretion of the district court is not broad enough to permit denial." *Shipner*, 868 F.2d at 407; see also *Moore v. Baker*, 989 F.2d 1129, 1131 (11th Cir.1993) (holding that "a justifying reason *must be apparent* for denial of a motion to amend") (emphasis added).

Motorcity of Jacksonville, Ltd. By and Through Motorcity of Jacksonville, Inc. v. Southeast Bank, N.A., 83 F.3d 1317 (C.A.11

(Fla.), 1996) *reversed, in part, on other grounds, Hess v. E.D.I.C.*, 519 U.S. 1087 (117 S.Ct. 760) (136 L.Ed.2d 708) (65 USLW 3500) (65 USLW 3505) (U.S. Jan 21, 1997) (NO. 96-106).

As there is no prejudice whatsoever to Defendants if this Court allows Plaintiff to amend, clarify and/or otherwise supplement his original Complaint (Plaintiff's "Second Motion"), this Court must allow Plaintiff such leave to amend.

Said *Amended Complaint* is incorporated by reference herein.

WHEREFORE, Plaintiff prays that this Court GRANT his within and foregoing Second Motion for the reasons stated herein, allow Plaintiff leave to amend, clarify and/or otherwise supplement his original Complaint and allow him to use said Complaint, as amended, in part, in his Response to Defendants' pending Motion and Request and for such other and further relief this Court deems fair, just and equitable.

Respectfully submitted,

This 20<sup>th</sup> day of January, 2008.

VILLANI & ASSOCIATES, P.C.

/s/ Ralph J. Villani  
Ralph J. Villani  
GA Bar No. 727700

2055-C Scenic Hwy., N.  
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COUNSEL FOR PLAINTIFF  
IN THE UNITED STATES DISTRICT COURT  
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Defendants.	)	MOTION
_____	)	

AMENDED COMPLAINT AND PRAYERS FOR RELIEF

COMES NOW Plaintiff, by and through his undersigned counsel, and hereby amends, clarifies and/or otherwise supplements his original Complaint and shows this Court as follows:

Plaintiff's original Complaint and Prayers for Relief are incorporated by reference herein as if they were written below.

Plaintiff amends, clarifies and/or otherwise supplements his original Complaint as follows:

Plaintiff adds the following paragraphs 101 and 102 to his original Complaint.

101. Over and above the aforementioned *Special Damages*,

Defendants are liable to Plaintiff for, in part, additional damages, to wit: \$170,230.00, at minimum, as follows:

- a. Treble RICO and Punitive damages for theft by deceit and theft by conversion and illegal and illicit fraud

for 97 occurrences relating to and/or concerning *inflated trip fees* as outlined herein in an amount, at minimum of \$1,000.00 in punitive damages per occurrence or \$97,000 plus \$22,230 treble RICO damages (sub total of \$119,230.00).

b. Treble RICO and Punitive damages for theft by deceit and theft by conversion and illegal and illicit fraud for 97 occurrences relating to and/or concerning *weekly phantom charges* as outlined herein in an amount, at minimum of \$1,000.00 in punitive damages per occurrence or \$44,000 plus \$7,500 treble RICO damages (sub total of \$51,500.00).

c. Thus, Defendants are liable to Plaintiff for treble RICO damages of \$29,730.00, at minimum, and for punitive damages of \$141,000.00, at minimum, for a total of at least \$170,230.00 in additional damages.

102. Defendants are liable to Plaintiff for, at a minimum, *Special damages* (\$58,910.00), *treble RICO damages* (\$29,730.00) and *punitive damages* (\$141,000.00) for an aggregate amount of: **TWO HUNDRED, THIRTY THOUSAND, SIX HUNDRED, FORTY & 00/100ths (\$230,640.00) DOLLARS.**

Plaintiff amends, clarifies and/or otherwise supplements his original Prayers for Relief as follows:

**WHEREFORE**, Plaintiff prays that this case be tried before a

jury of twelve and that this Court award him *Special damages* in the amount of at least \$58,910.00, *treble RICO damages* in the amount of at least \$29,730.00, *punitive damages* in the amount of at least \$141,000.00 for an aggregate amount, at a minimum, of:

**TWO HUNDRED, THIRTY THOUSAND, SIX HUNDRED, FORTY & 00/100ths**

**(\$230,640.00) DOLLARS** (*an amount well above the diversity threshold and which Plaintiff can reasonable prove and/or which this Court and/or a jury can reasonable award*) plus compensatory, consequential and additional punitive damages, reasonable attorney fees and costs of litigation, additional treble RICO damages, stubbornly litigious damages in an amount as awarded by a fair and impartial jury and that this Court award Plaintiff such further and other relief against these Defendants as this Court deems fair, just and/or equitable.

Respectfully submitted,

This 20<sup>th</sup> day of January, 2008.

VILLANI & ASSOCIATES, P.C.

/s/ Ralph J. Villani  
Ralph J. Villani  
GA Bar No. 727700

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VLADIMIR DJURDJEV, BOJAN	)	
("BOB") PANIC, ET AL.,	)	
Defendants.	)	ORDER
_____	)	

ORDER

This matter having come before this Court on Plaintiff's  
*Second Motion* and this Court having considered same, it is hereby

ORDERED that Plaintiff shall be and is granted leave to  
amend, clarify and/or otherwise supplement his original Complaint  
and use said Complaint, as amended, in part, in his Response to  
*Defendants' Motion to Dismiss Complaint and Request For*  
*Attorney's Fees* [Doc 6].

SO ORDERED this \_\_\_\_ day of \_\_\_\_\_, 2008.

\_\_\_\_\_  
Hon. Beverly B. Martin, Judge  
U.S. District Court  
Northern District of Georgia  
Atlanta Division

Prepared and Submitted by:

/s/ Ralph J. Villani  
Ralph J. Villani  
Counsel for Plaintiff

COMBINED CERTIFICATION OF COMPLIANCE AND CERTIFICATE OF SERVICE

I certify that Plaintiff's within *SECOND MOTION* (with Amended Complaint and proposed Order attached) has been prepared in 12-point Courier New font and it complies with LR 5.1(B).

I further certify that I, this day, electronically filed Plaintiff's *SECOND MOTION* (with said attachments) with the Clerk of this Court using the CM/EMF system which will automatically send E-mail notification of such filing to the following attorney of record:

Salmeh Fodor, Esq. [skfodor@mklawllc.com](mailto:skfodor@mklawllc.com)

Respectfully submitted,

This 20<sup>th</sup> day of January, 2008.

VILLANI & ASSOCIATES, P.C.

/s/ Ralph J. Villani  
Ralph J. Villani  
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